

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



February 17, 2009

Deputy David Howard, #[redacted]

Dear Deputy Howard:

You are hereby notified that pursuant to a settlement agreement between you and this Department dated February 3, 2009, you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department, for a period of one (1) day. However, in accordance with the settlement agreement, the one (1) day will be held in abeyance for a period of twelve (12) months which will end on February 2, 2010. All Department records will reflect, nevertheless, that you received a one (1) day suspension. If you should become the Subject of a founded administrative investigation, involving similar violations, within the prescribed twelve (12) month time period of the settlement agreement, the one (1) day held in abeyance will be imposed. Additionally, you will be subject to further discipline for each and every founded violation of the Department's Manual of Policy and Procedures.

An investigation under IAB File Number 2235720, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (*as it pertains to Manual Section 5-09/210.10, Control of a Pursuit*), on or about May 12, 2007, you initiated a vehicle pursuit and failed to notify the station Watch Commander and/or the Sheriff's Communications Center (SCC) that you were in pursuit and/or failed to provide any information regarding the pursuit as required by the aforementioned policies.

Prior to imposing this disciplinary action, The Executive Force Review Committee and I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Christy Guyovich, Captain
Commander, Lakewood Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

CG:KM:bs

c: Advocacy Unit
Thomas P. Angel, Chief, Field Operations Region III
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Lakewood Station/Unit Personnel File

3-01/050.10 Performance to Standards **

Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner which will tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department.

Incompetence may be demonstrated by:

- A lack of knowledge of the application of laws required to be enforced
- An unwillingness or inability to perform assigned tasks
- The failure to conform to work standards established for the member's rank or position
- Failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention
- Absence without leave
- Unnecessary absence from an assigned area during a tour of duty.

In addition to the above, the following will be considered to be prima facie evidence of incompetence:

- Repeated poor evaluations
- A written record of repeated infractions of the Department's rules, regulations, manuals, or directives.

3-01/030.10 Obedience to Laws, Regulations, and Orders

Members shall not willfully violate any federal statute, State law, or local ordinance.

Members shall conform to and abide by the following:

. Charter of Los Angeles County
. Los Angeles County Code
. Rules of the County Office of Human Resources

Members shall obey and properly execute all lawful orders issued by any supervisor of higher rank or classification or who is officially acting in such capacity.

When assigned to duty with another member of the Department, an employee shall be subject to disciplinary action for any violation by the other member of any provision of this Chapter unless the employee was unaware of the violation or unless the employee, if the situation permits safe and prudent action, attempts in good faith to prevent the violation, and, at the earliest reasonable time, reports the violation to his supervisor.

Members who violate any rules, regulations, or policies of the Department or the County shall be subject to disciplinary action. The commission or omission of any other act contrary to good order and discipline shall also be the subject of disciplinary action.

Members who are arrested for any offense, other than an infraction under the Vehicle Code, shall promptly notify their immediate supervisor of the facts of the arrest.

According to the nature of the offense, and in conformance with the rules of the County Office of Human Resources, disciplinary action may include, but is not limited to, the following:

- A reprimand (written) *
- Suspension without pay
- Reduction in rank
- Dismissal from the Department

5-09/210.10 CONTROL OF A PURSUIT

Primary Unit Responsibility

The Deputy initiating a pursuit is the primary unit and shall, in all cases, immediately provide the Station Watch Commander with the following information through the Sheriff's Communications Center (SCC):

Unit identification;

Location, speed and direction of travel;

The specific reason for the pursuit, including known laws violated;

Vehicle description, including license number, if known;

Number of occupants;

Traffic conditions, including the description of any hazardous driving by the suspect.

Failure to immediately volunteer the above information shall be cause for the Station Watch Commander to order termination of the pursuit.

The primary unit shall maintain field command and bears operational responsibility for the pursuit unless relieved by a supervisor.

The authority of the primary unit pertains to the immediate field operation and is, at all times, subordinate to the command of the Field Supervisor and Station Watch Commander.

Any time a pursuit is initiated due to a "possible" crime, including reckless DUI, personnel shall be required, subsequent to the pursuit, to articulate to the Watch Commander the objective criteria which led them to believe the suspect(s) was involved in criminal activity which warranted initiation of a pursuit under this policy. During the pursuit the Watch Commander may solicit sufficient information from the initiating unit, via radio, to justify continuation of the pursuit.

Personnel who participate in a pursuit, or are present at the termination of a pursuit,

SETTLEMENT AGREEMENT

PRELIMINARY STATEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department (hereinafter referred to as "Department") and Deputy David Howard, Employee No. [redacted] (hereinafter referred to as "Deputy Howard").

RECITALS

The Department and Deputy Howard are interested parties in a dispute and desire to settle any and all matters involving Internal Affairs Bureau's Investigation No. 2235720 pertaining to Deputy Howard's failure to notify the station Watch Commander and/or the Sheriff's Communications Center that he was in pursuit. Both parties desire to avoid litigation and any and all administrative process upon the terms and conditions hereinafter set forth.

NOW AND THEREFORE, the Department and Deputy Howard, for and in consideration of the mutual covenants herein, agree as follows:

1. The Department, upon execution of this Settlement Agreement, will issue a Letter of Imposition for a one (1) day suspension pursuant to Internal Affairs Bureau's Investigation No. 2235720. Deputy Howard agrees that he will abide by all the conditions set forth and contained within this Settlement Agreement.

2. In addition, the Department will hold the one (1) suspension day in abeyance for a period of twelve (12) months from the date of execution of this Settlement Agreement.

3. In the event Deputy Howard is the subject of any founded investigation for similar misconduct within twelve (12) months of the date of execution of this Settlement Agreement, the one (1) day held in abeyance will be imposed. Deputy Howard also understands that he will be subject to additional discipline for each and every subsequent founded violation of the Department's Manual of Policy and Procedures.

4. Deputy Howard agrees that within one (1) year of the date of execution of this Settlement Agreement, he will conduct two (2) station briefings regarding the lessons learned and the importance of putting out a pursuit broadcast and the potential consequences when you don't. He will provide proof of the briefings to his Unit Commander.

5. Deputy Howard agrees and understands that failure to complete any of these terms will result in the immediate imposition of the one (1) day suspension referenced in #3 above.

6. Both parties agree and understand that Deputy Howard's records (including Personnel Performance Index [PPI]) will reflect that a one (1) day suspension was imposed and may be used for the purposes of demonstrating "progressive discipline."

7. Deputy Howard's PPI will reflect "Founded, One (1) Day Suspension" as to: Violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards, 3-01/030.10, Obedience to Laws, Regulations and Orders and 5-09/210.10, Control of a Pursuit.

8. Deputy Howard agrees to waive any and all future administrative and/or judicial remedies with respect to this matter and Internal Affairs Bureau No. 2235720. This waiver shall include, but not be limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission.

9. Deputy Howard acknowledges and agrees that he has been provided the opportunity to consult with a labor representative and/or attorney regarding the terms and conditions of this Settlement Agreement.

10. The parties further agree that this Settlement Agreement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice. This Settlement Agreement resolves the dispute between Deputy Howard and the Department and is not to be applied to any other facts or disputes.

11. In consideration of the terms and conditions set forth herein, Deputy Howard agrees to fully release, acquit, and forever discharge the County and all present and former officers, employees and agents of the County and their heirs, successors, assigns, and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Deputy Howard concerning the subject matter referred herein. Additionally, Deputy Howard specifically acknowledges that he has not been the subject of discrimination in any form, including, but not limited to, discrimination, retaliation or harassment, based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, parental status, sexual orientation or gender, and that he has no claim against the Department for any such discrimination, whether any such claim is presently known or not known by him.

12. Deputy Howard further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

13. Each party hereto represents and agrees that he or it has carefully read and fully understands all of the provisions of the Settlement Agreement, and that he or it is voluntarily, without any duress or undue influence on the part of or on behalf of any party, entering into this Settlement Agreement.

14. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy or facsimile transmission of the Settlement Agreement, including signatures, shall be deemed to constitute evidence of the Settlement Agreement having been executed.

15. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this Settlement Agreement.

16. The parties agree that the foregoing comprises the entire Settlement Agreement between the parties and that there have been no other promises made by any party. Any modification of this Settlement Agreement must be in writing.

I have read the foregoing Settlement Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

David M. Howard II
Deputy David Howard, No. [redacted]

02-03-09
Date

For the Department:

Christy Guyovich
Captain Christy Guyovich
Lakewood Station

02-03-09
Date

761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: January 13, 2009

OFFICE CORRESPONDENCE FILE NO. SH2194857
IV2235720

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING**

The purpose of this memo is to notify you of the Review Committee's findings and recommendations concerning the use of force incident which occurred on May 12, 2007.

The Committee met on January 8, 2009, and consisted of myself and Commanders Stephen B. Johnson (Custody Operations Division) and Thomas E. Spencer (Detective Division).

The Committee deemed:

- as **Founded** the allegation that Deputy David Howard #[redacted] violated the Department's Manual of Policy and Procedure Section 3-01/050.10 (Performance to Standards); and/or 3-01/030.10 **(Obedience to Laws, Regulations, and Orders)** re: Manual of Policy and Procedures, Section 5-09/210.10 **(Control of a Pursuit)**.

The Committee recommended that Deputy David Howard #[redacted] receive a **Suspension with loss of pay and benefits for 1 day.**

EBS:YLW:yw

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT
PERSONNEL INVESTIGATION

DATE	No. OF SUBJECTS	UNIT(S) INVOLVED	I.A.B. FILE No.
01/08/09	1	Lakewood Station	IV2235720

MANUAL SECTIONS ALLEGEDLY VIOLATED (BY TITLE AND No.)
Obedience to Laws, Regulations and Orders - 3-01/030.10

Control of a Pursuit - 5-09/210.10

DATE, TIME, DAY OF OCCURRENCE	RELATED URN FILE No. IF APPLICABLE
05/12/07, 0115 hours, Saturday	007-13267-1364-013

LOCATION OF OCCURRENCE: Muriel Avenue and Pixley Street

SOURCE OF COMPLAINT: ☐ COMMUNITY ☒ SUPERVISION W/C REPORT No. ____ ☐ OTHER SOURCES (SPECIFY) ____

SUBJECT	LAST NAME	FIRST NAME	M.I.	RANK OR TITLE	EMP. No.
No. 1 OF 1	Howard	David		Deputy Sheriff	[redacted]

UNIT OF ASSIGNMENT	DATE ASSIGNED	DIVISION OR REGION
Lakewood Station	10/01/06	Field Operations Region III

STATUS OF SUBJECT: ☒ CONTINUING ON DUTY ☐ RELIEVED OF DUTY - REASSIGNED TO: ____ ☐ OTHER ____

SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	D.O.B.	AGE
M	B	Blk	Bro	5' 10"	165	[redacted]	[redacted]

DATE OF HIRE	DATE APPOINTED TO RANK	INTERVIEW TAPE RECORDED ON
11/08/01	[redacted]	TAPE ____ OF ____ SIDE ☐ A ☐ B DATE ____ TIME ____

PREVIOUS 7 YEAR FOUNDED INVESTIGATIONS (EXCLUDING TRAFFIC)

DATE	I.A.B. FILE No.	MANUAL SECTION(S) VIOLATED	DISCIPLINE
		None	

SUBJECT	LAST NAME	FIRST NAME	M.I.	RANK OR TITLE	EMP. No.
No. OF					

UNIT OF ASSIGNMENT	DATE ASSIGNED	DIVISION OR REGION

STATUS OF SUBJECT: ☐ CONTINUING ON DUTY ☐ RELIEVED OF DUTY - REASSIGNED TO: ____ ☐ OTHER ____

SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	D.O.B.	AGE

DATE OF HIRE	DATE APPOINTED TO RANK	INTERVIEW TAPE RECORDED ON
		TAPE ____ OF ____ SIDE ☐ A ☐ B DATE ____ TIME ____

PREVIOUS 7 YEAR FOUNDED INVESTIGATIONS (EXCLUDING TRAFFIC)

DATE	I.A.B. FILE No.	MANUAL SECTION(S) VIOLATED	DISCIPLINE

CODE: C - COMPLAINANT, W - WITNESS

ADDITIONAL COMPLAINANTS, WITNESSES, OR SUBJECTS ON SUPPLEMENTAL PAGES ☐ YES ☐ NO

CODE	LAST NAME	FIRST NAME	M.I.	SEX	RACE	D.O.B.
No. OF						

RESIDENCE ADDRESS | RES. PHONE (AREA CODE) ( )

BUSINESS ADDRESS OR UNIT OF ASSIGNMENT | CDL OR LASD EMPLOYEE NO. | BUS. PHONE (AREA CODE) ( )

INTERVIEW TAPE RECORDED ON: TAPE ____ OF ____ SIDE ☐ A ☐ B DATE ____ TIME ____

CODE	LAST NAME	FIRST NAME	M.I.	SEX	RACE	D.O.B.
C No. 1 OF 1	Angel	Thomas				

RESIDENCE ADDRESS: Chief | RES. PHONE (AREA CODE) ( )

BUSINESS ADDRESS OR UNIT OF ASSIGNMENT: Field Operations Region III | CDL OR LASD EMPLOYEE NO. | BUS. PHONE (AREA CODE) ( )

INTERVIEW TAPE RECORDED ON: TAPE ____ OF ____ SIDE ☐ A ☐ B DATE ____ TIME ____

PRIMARY INVESTIGATOR	RANK	EMP. No.	APPROVED	DATE
John W. Harris	Sergeant	[redacted]	Don M. Slawson	01/13/09
ASSISTING INVESTIGATOR	RANK	EMP. No.	DATE SUBMITTED	

SH-AD-669-2/93

IF ADDITIONAL SUBJECTS, WITNESSES, COMPLAINANTS OR DISCIPLINE HISTORIES, LIST ON CONTINUATION PAGES.

SHERIFF'S DEPARTMENT PERSONNEL INVESTIGATION

I.A.B. FILE No. IV2235720

NARRATIVE SHOULD BE AN OBJECTIVE AND UNBIASED STATEMENT OF THE FACTS; INVESTIGATOR OPINIONS SHALL NOT BE INCLUDED.

No. OF ITEMS	LIST EXHIBITS/EVIDENCE FIRST (IF STORED, STATE LOCATION - AUDIO TAPES SHOULD BE CLEARLY LABELED), THEN BEGIN NARRATIVE.
	ADMINISTRATIVE RIGHTS FORMS. (ATTACH ONE FORM FOR EACH EMPLOYEE INTERVIEWED)
1	AUDIO TAPES. ALL INTERVIEWS SHALL BE TAPE RECORDED AND ALL TAPES MUST BE INCLUDED. (LIST EACH INTERVIEWEE BY NAME.)
	Digital Audio Files. Retained at IAB.

NARRATIVE CAN BE CONTINUED ON SH-AD-49 CONTINUATION FORM OR PLAIN BOND.

Table of Contents

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date:	Bureau/Station/Facility	Admin. Invest.?	Hit?
09-26-2008	Lakewood Station- Paramount	☐	☒

URN	Date	Time
007-13267-1364-013	05-12-2007	0113

City or Station: Compton /Paramount Sub-Station

Location: Muriel Avenue and Pixley Street

Nature of Incident: Deputy Howard effected a traffic stop on Suspect Saenz , who then drove off The suspect stopped a short time later and fired a shot at Deputy Howard. Deputy Howard returned fire and killed the suspect.

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, **Residence** (circled), Rural, School, **Street** (circled), Other: ____

Lighting (*circle only one*): **Darkness** (circled), Daylight, Other, **Street Lights** (circled)

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: 15-20 feet

Incident Type (*circle one or more*): Accidental, **Armed Person** (circled), **Fleeing Suspect** (circled), Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, **Traffic Stop** (circled), Unarmed Person, Unintentional, **Vehicle Pursuit** (circled), Warrant Service, Warning Shot, Other: ____

Initiated by (*circle only one*): Arrest Warrant, Call, **Observation** (circled), One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol** (circled)

Aero Unit? ☐ Canine Unit? ☐

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
nine	one

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.
[redacted]	[redacted]	[redacted]

Street Address	City	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Last Name	First Name	M.I.

Street Address	City	Zip Code	Work Ph	Home Ph

Last Name	First Name	M.I.

Street Address	City	Zip Code	Work Ph	Home Ph

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	Knapp	Gregory		**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Martinez	Jessie	

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Dinh	Minh	G

PSTD Use Only
SH # SH 2194857



See Reverse

Officer Involved Shooting

URN: 007-13267-1364-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
05-12-07	0145	09-26-08	

Employee #	Last Name	First Name	MI
[redacted]	HARRIS	JOHN	W.
[redacted]	DENISON	TRENT	
[redacted]	WHITHAM	DAVID	L.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton (Control)
(BI) Baton (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds (Control Techniques)
(TT) Control Holds (Team Takedown)
(TD) Control Holds (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) 22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) 410 guage
(44) 44 caliber
(45) 45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S # 1	E # 1	FH	ZZ	9			NN	
E # 1	S # 1	FH	BR	38	Y	Y	DH	HE

Officer Involved Shooting
Involved Employee Information

URN 007-13267-1364-013

Involved Employee

E 1

Employee #	Last Name: HOWARD	First Name: DAVID	M.I.
Sex: M Race: Black	Rank: Deputy	Unit Assignment: Lakewood	Work Assignment (Unit #, Module, etc.): Paramount- 36B
ShiftTime (*circle only one*): (EM) PM Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☒
Hrs of sleep prior to shooting: 3	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 5' 10" Weight: 165			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Beretta Caliber: 9mm # Shots: 9	Weapons Fired Brand: Caliber: # Shots:		
Field Training Officer Emp #: [redacted]	Last Name: [redacted]	First Name: [redacted]	M.I. [redacted]
Field Training Officer Emp #: [redacted]	Last Name: [redacted]	First Name: [redacted]	M.I. [redacted]

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment	Work Assignment (Unit #, Module, etc.)
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting	Duty Time (hrs)	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors
Age: Height: Weight:			
Range Qualification Date	PPC Qualification Date:	Laser Training Date	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force ☐
Weapons Fired Brand: Caliber # Shots	Weapons Fired Brand Caliber # Shots		
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment	Work Assignment (Unit #, Module, etc.)
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting	Duty Time (hrs)	Clothing (*circle only one*): Plain Clothes no Vest / Raid Jacket w/ Vest / Plain Clothes w/ Vest / Uniform no Vest / Raid Jacket no Vest / Uniform w/ Vest	Other Factors
Age: Height: Weight:			
Range Qualification Date	PPC Qualification Date	Laser Training Date	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force ☐
Weapons Fired Brand: Caliber # Shots	Weapons Fired Brand: Caliber # Shots		
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

URN: 007-13267-1364-013

Suspect Information

S 1	Last Name: SAENZ	First Name: VENTURA	M.I.
	AKA Last Name	First Name	M.I.
Sex: M Race: Hispanic	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #:	Driver's License #: [redacted]
Age: 19 D.O.B. 09-24-87	Height: 5' 05" Weight: 140	FBI #: [redacted]	CII #: [redacted]
Booking #: N/A	Primary Charge: 245	Secondary Charge:	
Coroner Case? ☒	Coroner Case #:	Intoxication/Drug Usage? ☒	Substance Used: Alcohol
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: Ford		Model: Pick-up truck	Year: 1997

S__	Last Name	First Name	M.I.
	AKA Last Name	First Name	M.I.
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S__	Last Name	First Name	M.I.
	AKA Last Name	First Name	M.I.
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S__	Last Name	First Name	M.I.
	AKA Last Name	First Name	M.I.
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

INVESTIGATIVE SUMMARY

Classification:	**Attempted Murder of a Peace Officer-664/187pc, Shots Fired by a Deputy, Deputy Involved Shooting, Suspect Deceased**
Date & Time:	**May 12, 2007 (Saturday), at approximately 0115 Hours**
Location:	**Muriel Avenue and Pixley Street, Compton**
IAB File #	**SH 2194857**
File#	**007-13267-1364-013**
Suspect:	**Ventura Saenz MH/19, Deceased**
Victim:	**Deputy David Howard**

Opening Statement:
On Saturday, May 12, 2007, Sergeant John Harris, Sergeant Trent Denison and Lieutenant Dave Whitham of the Internal Affairs Bureau responded to a temporary command post at Pannes Avenue and Rosecrans Avenue in the City of Compton. IAB Investigators had been notified of a deputy involved hit shooting which occurred at Muriel Avenue and Pixley Street in the City of Compton.

The shooting was the culmination of a traffic stop by Lakewood Station Deputy Howard, who had stopped the vehicle's driver for suspicion of operating a motor vehicle while under the influence of alcohol and/or drugs.

Synopsis:
Deputy Howard shot Suspect Saenz after the suspect fired a handgun at him.

Deputy David Howard, a one-person unit, was patrolling in the area of Rosecrans Avenue and Garfield Avenue, in the City of Paramount. Deputy Howard observed a white Ford F150 pickup truck make an illegal U-turn from eastbound Rosecrans Avenue to westbound Rosecrans Avenue. Deputy Howard pulled in behind the pickup truck and effected a traffic stop. Deputy Howard contacted the driver, Suspect Ventura Saenz, and noted an odor of alcohol on the suspect's breath. When Deputy Howard asked the suspect for his driver's license, the suspect quickly sped west on Rosecrans Avenue at a high rate of speed Deputy Howard returned to his radio car and attempted to locate the suspect vehicle.

Deputy Howard saw the pickup truck on Rosecrans Avenue crossing Atlantic Boulevard. The truck continued west on Rosecrans Avenue, then turned south on Muriel Avenue, a residential street.

The pickup truck continued south one block to Pixley Street and abruptly stopped. Deputy Howard was directly behind the pick-up truck and stopped a few feet from the truck's rear bumper. As Deputy Howard was exiting his vehicle to re-contact the suspect he saw the suspect's hand suddenly protrude from the open driver's door window. He then saw the suspect, who remained inside the vehicle, point and fire a handgun at him.

The suspect's round struck the left rear driver's side window frame of the radio car. Deputy Howard immediately returned fire striking the suspect and the pickup truck. There was also a passenger in the truck, 18-year-old [redacted] who surrendered to Deputy Howard without further incident. Deputy Howard, with the assistance of responding units, removed Suspect Saenz from the truck.

Deputy Howard was not injured in the incident.

Suspect Saenz sustained a gunshot wound to the head. He was transported to Saint Francis Medical Center where he was pronounced dead.

<u>Legal Opinion of the Justice System Integrity Division of the Los Angeles County District Attorney's Office</u>

On April 23, 2008, The Justice System Integrity Division of the Los Angeles County District Attorney's Office completed its review of the May 12, 2007, fatal shooting of Ventura Saenz by Los Angeles County Sheriffs Deputy David Howard.

In their letter of opinion, they wrote;

> "Penal Code §§ 692-694 specifically authorizes any individual protecting himself or another to use all force which he believes to be reasonably necessary and which would appear to a reasonable person in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent *See also, California Jury Instructions-Criminal 5.30, 5.32.*
>
> When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. *People* V. *Collins (1961) 189 Cal. App.Bd 575,*
>
> As Deputy Howard exited his vehicle, he saw Saenz fire his pistol at him. In fear for his life, Deputy Howard immediately responded with deadly force. Saenz's actions placed Deputy Howard in imminent danger of death or great bodily injury. We find that Deputy David Howard acted in lawful self-defense. We are closing our file and will take no further action in this matter."

Involved Personnel:
HOWARD, David, Deputy Sheriff #[redacted]
Field Operations Region III
Lakewood Station - Paramount Sub Station

Work History:
Date of Employment: 11 - 2001
Date Assigned to Patrol:
Completed Patrol Training:
Prior Shooting Incident(s):
Prior Founded Force Incidents:


[redacted]

Suspect:
Saenz, Ventura, MH/19, DOB 11-14-1986, (per DMV as of 06-05-2005) [redacted] The Consolidated Criminal History Reporting System (CCHRS) lists [redacted] as Saenz's address.

Suspect's Saenz's Criminal History:
FBI # [redacted] **CII #** [redacted] **CA INDEX #'S** [redacted] & [redacted]
Information found in the Consolidated Criminal History Reporting System (CCHRS)


[redacted]

Witnesses:
[redacted] DOB [redacted]
CII # [redacted]

Injuries:
Suspect Ventura Saenz was transported to St. Francis Hospital by the Compton Fire Department. Saenz was pronounced dead by Dr. Harper, M.D. at 1:57 a.m.

On May 14, 2007, Deputy Medical Examiner Solomon Riley, Jr. performed an autopsy on the body of Ventura Saenz. Dr. Riley determined the cause of death to be a single gunshot wound to Saenz's head. Deputy Medical Examiner Solomon Riley, Jr. described the wound as being produced by a single perforating gunshot. The entry wound is to the lower forehead, four and half inches below the top of the head and one and three eights inch to the left of the midline.

The exit wound is to the occipital region of the head, 4 inches below the top of the head and one inch to the right of the midline. The direction of the wound track is left to right, front to back and slightly upward.

Toxicology tests found that Saenz had a small amount of alcohol in his blood at the time of his death. **Refer to Autopsy Report by Deputy Medical Examiner Solomon Riley, Jr for additional information.**

Physical Evidence:

Refer to the Supplemental Report found in Sheriff's Department Homicide Bureau's Investigation, by Firearms Examiner Manuel Munoz #[redacted] pages 49 thru 57. The Supplemental Report identifies evidence held, the location recovered from and the trajectory of bullet strikes.

Investigators Observations, Scene Description:

Homicide Investigators, Loman and Rubino were assigned to document the crime scene. The following can be found in the Homicide Investigation Book, beginning on page 37.

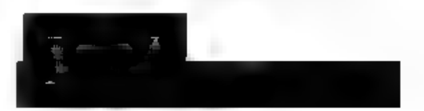
The area around the intersection of North Muriel Avenue and East Pixley Street, in the city of Compton is primarily residential. Detectives observed single family residences along the east and west sides of Muriel Avenue. Both the east and west sides of Muriel Avenue have paved sidewalks. On the south side of Pixley Avenue is "Roosevelt Elementary School," 700 North Bradfield Avenue. The street north of the intersection of Pixley Street and Muriel Street is Rosecrans Avenue. Rosecrans Avenue is a main thoroughfare in the City of Compton. There is a stop sign for southbound traffic on Muriel Street at the intersection of Pixley Street. Detectives observed a street lamp on the northeast corner of Muriel Avenue and Pixley Street. The street lamp was "on" and appeared to be functioning normally.

The suspect's vehicle, 1997 Ford F-150, XL, extra cab, pick-up truck, white, CA license plate #[redacted] was parked facing south in the middle of the street, in front of [redacted] N. Muriel Avenue.

Deputy Howard's patrol car SD4058, CA license 1135337, was parked facing south in the middle of the street, in front of [redacted] N. Muriel Avenue. **Refer to Homicide Investigation Book, beginning on page 49 for evidence collected, trajectories of bullet strikes and impact locations on the suspect's pick-up truck and the patrol car.**

Weapon Used by Deputy Howard:
Deputy Howard fired nine rounds of Department authorized 9mm ammunition from his Department issued Beretta, Model 92 F, semiautomatic pistol, Serial # BER[redacted]

Deputy Howard's qualification date prior to the incident: [redacted]
Deputy Howard's last weapon training date: [redacted]



Weapon Used by Suspect Saenz:
Suspect Saenz was armed with a semiautomatic handgun. A "Llama" brand "MINIMAX38SUPER" model, stainless steel, black grips, serial #[redacted] One expended round was found inside of the chamber of the weapon. The weapon held a magazine which contained four live rounds. The weapon was recovered from the driver's side floorboard of Suspect Saenz's 1997 Ford pick-up truck.

A search of the Automated Firearms Systems (AFS) revealed that the above described weapon was registered to [redacted] DOB [redacted] with an address of [redacted] in the City of [redacted] The date of transaction is listed as 10-15-2000. **Refer to miscellaneous documents for the AFS print-out.**

A gunshot residue kit was utilized, the decedent's hands, along with hair and fingernail standards are booked at the FSC.

Property Damage:
During the course of the investigation, investigators did not observe any damage to personal property and no one reported any bullet damage to their homes or vehicles.

Criminal Investigators
Sheriff Department Homicide Bureau Investigators, Detective Sergeant Gene Okada, #[redacted] and Detective Jonas Shipe, #[redacted] were assigned the investigation. The case has been closed.

Lighting and Weather Conditions:
Lighting conditions were minimal, with ambient lighting coming from a city street lamp on the northeast corner of Muriel Avenue and Pixley Street. Additional lighting was possibly provided by residents who had their porch lights on. It is unknown if those porch lights were on at the time of the shooting. Deputy Howard's vehicle's headlights were on as well as his rotating lights, but not his spotlights.

Per the U.S. Naval Observatory, (Sun and Moon Data) the phase of the Moon on 5th of May was waning gibbous with 89% of the Moon's visible disk illuminated.

The weather was cool and clear.

Involved Employees' Statements:

The Interview of Victim Deputy David Howard:
The following summary was copied verbatim from the Homicide Investigation Book, page number 30. For exact verbiage refer to the transcribed verbatim of their interview or the recorded audio.

On May 12, 2007, at approximately 0615 hours, Detectives interviewed Deputy David Howard at Lakewood Sheriff's Station. Mr. Mitchell S. Kander (Attorney at Law), who was representing Deputy Howard, was also present during this interview. This interview was recorded and the following is a synopsis of the interview. For complete details refer to the recording. This recording will be made permanent part of this file.

Deputy Howard said he was driving north bound on Garfield Avenue at Mendy Street. He saw the truck make an illegal U-turn. He followed the truck and made a traffic stop. The truck stopped near the north/west corner of Garfield Avenue and Rosecrans Avenue.

He walked up to the truck and as he neared the driver's door he smelled the odor of an alcoholic beverage. He asked the driver (Suspect Saenz) for his driver's license. Suspect Saenz told Deputy Howard he did not have one. As soon as he said this, Suspect Saenz immediately drove away west on Rosecrans Avenue.

Deputy Howard said he ran back to his patrol car and chased the suspects. He tried to read the license plate, however, he never got close enough to see it. At the first controlled traffic intersection west of the 710 freeway, the suspect crossed into the east bound lanes. Suspect Saenz continued to drive west in the east bound lanes and made a left turn (south) onto Muriel Avenue.

Suspect Saenz stopped his truck at Pixley Street. Deputy Howard said he stopped his vehicle behind the suspect. As he was getting out of his patrol vehicle, he saw Suspect Saenz extend his arm out the driver's window and shoot one round at him. Deputy Howard said he returned fire and as he fired back he retreated to the rear of his patrol car.

He ordered the suspect to display their hands. The passenger [redacted] immediately complied, however, Suspect Saenz did not respond to his commands. Deputy Howard said he took cover behind a vehicle which was parked on the west curb line of Muriel Avenue. This vehicle was parked next to the passenger side of Suspect Saenz's truck. He ordered [redacted] out of the truck. As soon as [redacted] got out of the truck he laid down on the ground in a prone position.

At this time, Deputy Howard said he requested assistance. He stayed behind the vehicle and maintained visual contact of Suspect Saenz, who was still inside the truck.

<u>The IAB Interview of Victim Deputy David Howard</u>:
The following represents a summary IAB's interview of Deputy Howard, which was conducted on July 7, 2008, at approximately 1041 hours. For the exact verbiage and/or additional information refer to either the transcribed verbatim of the interview or the recorded interview.

Deputy Howard said he had just begun his shift, working a one person marked patrol car out of the Paramount substation on the early morning shift. Deputy Howard said as he was driving on Garfield Avenue, he saw a white pick-up truck traveling north on Garfield Avenue. The driver of the white pick-up truck made a U-turn, beginning at the far-right side lane of north Garfield Avenue and completed the turn in the far-right side lane of south Garfield Avenue After completing the U-turn, the driver continued south on Garfield Avenue.

Deputy Howard said he conducted a traffic stop to warn/cite the driver for the offense. He said as he walked up to the vehicle, he smelled alcohol. Deputy Howard said he asked the driver, later identified as Suspect Ventura Saenz for his driver's license. Deputy Howard said Suspect Saenz told him he didn't have one, put the truck in drive and drove off.

> **IAB Note**: Per the Department of Motor Vehicles, Suspect Saenz was never issued a California Driver's License.

Deputy Howard said the suspect made a right turn and continued west on Rosecrans Avenue.

Deputy Howard said he returned to his patrol car and drove after the truck. Deputy Howard said he began to follow the suspect to get the license plate number He said he followed the pick-up truck believing that the driver was a "reckless duece" and probably driving on a suspended license. He said shortly after driving over the 710 Freeway, the suspect's vehicle crossed over into the east bound traffic lanes of Rosecrans Avenue, and continued west.

Deputy Howard said at this time, he believed he had followed the suspect for approximately 30 to 40 seconds. He said the suspect's vehicle was at least 20 to 25 car lengths in front of him and his speed (Deputy Howard) was approximately 70 miles per hour. Deputy Howard said the suspect didn't produce a driver's license and he didn't have time to run the vehicles license plate, before the suspect fled. Deputy Howard said he was aware there was a second person in the vehicle.

Deputy Howard said he knew of no rational reason for the suspect driver to cross over into the opposing lanes of traffic, (west bound in the east bound lanes) as he (Deputy Howard) could see no vehicle traffic in front of the suspect's vehicle to slow him down. He said it was approximately 1:00 a m. in the morning and no one was out there.
He said the suspect was driving recklessly and based on his driving on the wrong side of the road and his speed, he (Deputy Howard) believed the suspect was under the influence of alcohol and/or drugs.

Deputy Howard said this was his first pursuit and he succumbed to tunnel vision, becoming overly focused on the suspect and forgetting to broadcast that he was in pursuit.

Deputy Howard said he didn't turn on his lights and siren, until after the suspect crossed over into the east bound lanes of Rosecrans Avenue. He said he knew that if he didn't stop the suspect, the suspect was going to crash head on, with a vehicle traveling in the east bound lanes.

Deputy Howard said the suspect then turned south on Muriel Avenue and stopped his vehicle, just north of Pixley Street.

> Deputy Howard said, "We're...he drives all the way down to the end where Muriel or Pixley, whatever, wherever they...and there's nothing preventing him from making left, right turn. And he just stops in the middle of the street. So I go, okay. So I, I stop behind him. And I immediately jump out of the car. And I put the car in park. Hop out. I'm behind the door As soon as I, I stand up, exiting the vehicle, I see hands, his hand come out, and I hear a pop and a muzzle flash."

Deputy Howard said it was very dark out and he didn't actually see the gun, but did hear the shot and saw the muzzle flash, as Suspect Saenz extended his hand out of the window. Deputy Howard said it happened so fast that he didn't have a chance to use his vehicle's spotlights or request back up over the radio. He said the fact that the suspect stopped, surprised him.

Deputy Howard said he was outside of his patrol car, standing at the car door when the suspect fired at him. He said he had drawn his gun as he exited his patrol car and his gun was down and at his side. He said once the suspect shot at him, he raised his weapon and began firing. He said he was able to pick up his the front sites of his "Beretta" and focused his fire on the driver's side of the vehicle, as that was where the shot had come from.

> Deputy Howard said, "I fired them as I was backing up, 'cause I wanted to get behind my car for more cover. So I, I fired them until I got behind my car. Once I got behind my car, I stopped. Kind of re-assess, looking around. Started barking orders. Reloaded. And then I went...the only, the only person that responded when I was barking orders was the passenger So I had, he had his hand out the window. I could see them. But the other guy, he wasn't responding. His door was kind of open a little bit, but no response from him."
>
> **IAB Note:** As Deputy Howard was talking, he brought both of his hands up and held them together, unconsciously demonstrating a modified "Weaver" stance.

Deputy Howard said the second time he stopped the suspect, he believed his patrol car was approximately fifteen to twenty yards behind the suspect's pick-up truck.

> **IAB Note:** Measurements taken by Sheriff's Department Forensic Identification Specialist II Susannah F. Baker, revealed Deputy Howard's radio car was stopped four feet behind the suspect's pickup truck. Refer to the Crime Scene Sketch, which can be found at the end of the Investigative Summary.

He said the entire incident evolved very rapidly and believed from the first traffic stop, to the last shot being fired, was approximately three minutes.

> **IAB Note:** IAB investigators drove the route described by Deputy Howard, starting at Garfield and Rosecrans and ending their mileage at [redacted] North Muriel Avenue. The recorded distance is 2.1 miles.

He said he fired at the suspect, because he feared for his safety and didn't want the suspect to shoot him.

Deputy Howard said at the time of the shooting, he had been off of [redacted] for a little over a [redacted] He also indicated that prior to the shooting, he had been drafted to work Catalina Island on day shift, due to brush fires on the island. He said he had approximately three hours of sleep prior to returning to work.

<u>Civilian Witnesses</u>:

The following summary was copied verbatim from the Homicide Investigation Book, page number 29. For exact verbiage refer to the transcribed verbatim of their interview or the recorded audio.

The Interview of Witness [redacted]

On May 12, 2007, at approximately 0545 hours, Detectives interviewed [redacted] at Lakewood Sheriffs Station. This interview was recorded and the following is a synopsis of the interview. For complete details refer to the recording. This recording will be made permanent part of this file.

Prior to interviewing [redacted] Detectives advised him of his "Miranda Rights." [redacted] said he understood his rights and agreed to speak with Detectives without an attorney present.

[redacted] said he was at a party in the City of Compton with a friend name [redacted] Since neither of them had a ride home, he called and asked his [redacted] Suspect Ventura Saenz, to pick them up. Suspect Saenz took [redacted] home and as he was being driven home, Suspect Saenz was stopped by the Deputy at Rosecrans Avenue and Garfield Avenue. He didn't know the reason why Suspect Saenz was being stopped.

The Deputy told Suspect Saenz to turn off his engine. The Deputy stepped back and away from the truck. As soon as the Deputy stepped back, Suspect Saenz immediately placed the truck into drive and quickly accelerated away.

Suspect Saenz was driving the truck at approximately 80 miles per hour and he was able to get all the green lights. [redacted] said it took a long time for the Deputy to catch up to them.

[redacted] said Suspect Saenz stopped, the truck at Muriel Avenue and Pixley Street. At this time Suspect Saenz reached behind the driver's seat with his left hand and pulled out a pistol. Suspect Saenz told [redacted] he was going to have to "shoot the cop." [redacted] said he told Suspect Saenz he shouldn't shoot the cop.

Suspect Saenz put the pistol into his right hand and opened the driver's door. [redacted] said he began to panic and tried to hide on the front floor board.
He heard several gunshots and wasn't sure how many rounds Suspect Saenz had fired. He also wasn't sure who had shot first. After the shooting had stopped the Deputy ordered him out of the truck. He complied with the Deputy's order and immediately laid down on the ground. [redacted] said he has never seen the gun prior to this incident and has never seen Suspect Saenz with a gun.

Additional Witnesses:
A detailed canvas of the neighborhood was conducted to identify witnesses to the shooting. Some residences reported hearing gunshots or sirens, but did not witnesses the events that led up to the shooting or the shooting.

Suspect Statements:
Witness [redacted] who was in the front seat of the pick-up truck at the time of the shooting, [redacted] of Suspect Saenz) told Sheriff Department Homicide Investigators, Suspect Saenz told him he was going to have to "shoot the cop."



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

April 23, 2008

Captain James Curtis
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J. S. I. D. File No. 07-0313
L.A.S.D. File No. 007-13267-1364-013

Dear Captain Curtis:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 12, 2007, fatal shooting of Ventura Saenz by Los Angeles County Sheriff's Deputy David Howard. We have concluded that Deputy Howard acted lawfully in self-defense.

The following analysis is based upon our examination of an investigative file prepared by the Los Angeles County Sheriff's Department (LASD), which included investigative reports, analyzed evidence reports, and witness' statements submitted to this office by Detective Jonas Snipe on November 8, 2007. The District Attorney Command Center was notified of the shooting at approximately 2:40 a.m. on May 12, 2007. The District Attorney Response Team, comprised of Deputy District Attorney Renee Korn and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the shooting and a "walk-through" of the scene. No compelled statements were considered in our analysis.

FACTUAL ANALYSIS

On May 12, 2007, at approximately 1:15 a.m., LASD Deputy David Howard was patrolling in a marked black and white Sheriff's vehicle in the city of Paramount. Deputy Howard observed a white Ford pickup truck make an illegal U-turn and initiated a traffic stop near the northwest corner of Garfield and Rosecrans Avenues. Ventura Saeńz was driving with [redacted] as his passenger. Deputy Howard approached the driver's side window of the truck and asked Saenz for his driver's license. Saenz stated that he did not have a license. Deputy Howard detected the smell of alcohol on Saenz's breath and told Saenz to turn off the engine. Instead, Saenz put the truck into drive and sped off.

Deputy Howard ran back to his patrol car and pursued the pickup truck. Saenz drove his pickup truck at speeds of nearly 80 miles per hour through streets in the cities of Paramount and Compton. Deputy Howard pursued Saenz into a residential area in Compton. Saenz stopped his truck at a T-intersection at Muriel Avenue and Pixley Street. Howard stopped his patrol car behind the pickup truck. As Deputy Howard exited his vehicle, he saw Saenz extend his arm out the driver's side window holding a pistol. Saenz turned his head back towards Deputy Howard, aimed his pistol, and fired one round. In fear for his life, Deputy Howard immediately responded by firing eight rounds at the pickup truck. One round struck Saenz in the head.

Deputy Howard ordered Saenz and [redacted] to show their hands. [redacted] immediately complied. However, Saenz did not respond to Deputy Howard's command. Howard took cover behind a vehicle and ordered [redacted] out of the truck. [redacted] complied and lay on the ground in a prone position. Deputy Howard then radioed for assistance.

Responding units arrived and detained [redacted] After determining Saenz was unconscious and no longer posed a threat, deputies requested paramedics to provide medical treatment. A .38 caliber "Llama" semiautomatic pistol was found on the driver's side floorboard within Saenz's reach.

Saenz was transported to St. Francis Hospital by the Compton Fire Department. Saenz was pronounced dead by Dr. Harper, M.D. at 1:57 a.m.

On May 14, 2007, Deputy Medical Examiner Solomon Riley, Jr. performed an autopsy on the body of Ventura Saenz. Dr. Riley determined the cause of death to be a single gunshot wound to Saenz' head. Toxicology tests found that Saenz had a small amount of alcohol in his blood at the time of his death.

Saenz's firearm was examined. An expended shell casing was found inside the chamber, apparently failing to automatically eject from the firearm. Four live rounds were found in the magazine. Investigators noted that the rubber trim of the driver's door of Deputy Howard's patrol vehicle had been struck by a bullet.

None of the residents in the neighborhood witnessed the incident.

The passenger in the pickup truck, [redacted] spoke with detectives. [redacted] stated that he was at a party in Compton with his friend [redacted] [redacted] telephoned his [redacted] Ventura Saenz, and asked him to pick them up from the party. After they dropped off [redacted] Saenz and [redacted] were pulled over by Deputy Howard at Garfield and Rosecrans Avenues. When Deputy Howard ordered Saenz to turn off his engine, Saenz put the car into drive and sped off. [redacted] stated that Saenz was driving the truck at approximately 80 miles per hour. Saenz stopped the truck at Muriel Avenue and Pixley Street. Saenz reached behind the driver's seat and pulled out a pistol. Saenz told [redacted] that he was going to have to "shoot the cop." [redacted] told him not to shoot the cop. Saenz held the pistol in his right hand, opened the driver's door and began to

shoot [redacted] panicked and tried to hide on the front floor board. After the sound of gunfire stopped, [redacted] followed the deputy's orders.

[redacted] was not sure how many rounds Saenz fired. [redacted] stated that he has never seen his [redacted] with a gun before this incident.

LEGAL ANALYSIS

Penal Code §§ 692-694 specifically authorize any individual protecting himself or another to use all force which he believes to be reasonably necessary and which would appear to a reasonable person in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. *See also, California Jury Instructions-Criminal 5.30, 5.32.*

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. *People v. Collins (1961) 189 Cal. App.3d 575.*

A person threatened with an attack that justifies the exercise of the right to self-defense need not retreat. In the exercise of his right of self-defense a person may stand his ground and defend himself by all force and means which would appear to be necessary to a reasonable person in a similar situation and with similar knowledge; and a person may pursue his assailant until he has secured himself from danger if that course, likewise, appears reasonably necessary. This law applies even though the assailed person might more easily have gained safety by flight or withdrawing from the scene. *California Jury Instructions Criminal (CALJIC) 5.5.*

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CONCLUSION

On May 12, 2007, at approximately 1:00 a.m., Deputy Howard was on patrol when he stopped a pickup truck driven by Ventura Saenz, along with his passenger, [redacted] When Saenz was unable to provide a driver's license, he fled from Deputy Howard, driving the pickup truck at a high rate of speed. Deputy Howard pursued the pickup truck, eventually confronting Saenz and [redacted] at the intersection of Muriel Avenue and Pixley Street in Compton. As Deputy Howard exited his vehicle, he saw Saenz fire his pistol at him. In fear for his life, Deputy Howard immediately responded with deadly force. Saenz's actions placed Deputy Howard in imminent danger of death or great bodily injury. We find that Deputy David Howard acted in lawful self-defense. We are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

RENÉE KORN
Deputy District Attorney
(213) 974-3888

c: Deputy David Howard, Serial No. [redacted]